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COMMERCE FOR BIS (ROBERTS)
NSC FOR SMITH
WINPAC FOR WALTER

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SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WRAP UP FOR TWO
WEEKS ENDING MAY 23, 2008

REF: THE HAGUE 396

Classified By: Ambassador Eric M. Javits for reasons 1.4 (B) and (D)

This is CWC-24-08.

SUMMARY

¶11. (SBU) While OPCW has had a very lean schedule since the Review Conference, the U.S. delegation continued to meet May 13 - 23 with Technical Secretariat officials and other delegations on upcoming issues. Ambassador Javits met with the new Executive Council Chairperson to discuss future activity in the Council. DelReps met with TS officials to discuss Libya's conversion progress, and with other delegations to review the aftermath of the Review Conference and to discuss industry issues, particularly low concentration thresholds for Schedule 2A/2A* chemicals. DelRep also called on TS officials to discuss the draft facility agreement for an industry Schedule 1 facility in the U.S., and a possible visit by the U.S. Technical Equipment Inspection team in August.

U.S./UK/SECRETARIAT MEETING TO DISCUSS LIBYA

¶12. (SBU) On May 16, DelReps and a UK delegate met with Technical Secretariat officers Bill Kane, Santiago Onate, Dominique Anelli and Oleg Ukhakov to discuss the status of Libya's former Chemical Weapons Production Facility (CWPF) conversion and CW destruction efforts. Discussions covered the upcoming (July) deadline for conversion of the former CWPF at Rabta and its possible political implications; additional equipment being added to the conversion plan; Libya's desire to retain the sandbag wall around the Rabta facility; and an assessment of Libya's progress to date.

¶13. (SBU) There was a lengthy discussion of the legal aspects of Libya's inability to meet the conversion

deadline established by a CSP-9 decision. Legal Advisor Onate noted that while the Conference had established the July 2008 deadline, the technical change to the Convention that provided a legal basis for Libya to convert its facility actually allowed for the full six year conversion period, which would end in 2011. There is no provision in the Convention for a request to extend a conversion deadline that falls prior to the expiration of the six year period. Libya likely believes itself to have met any requirements by noting in an EC-50 national paper that it would be unable to meet the July 2008 deadline, but anticipates completion of conversion by December 2009. There was also some speculation during the meeting regarding the potential for Iranian trouble-making at EC-53, which is always difficult to predict.

¶4. (C) DelRep sought clarification on the addition of several sets of equipment that are only now being added to the Libyan conversion plan. The TS explained that on successive inspections of the former CWPF at Rabta, the inspection teams have been able to go deeper into the facility, only recently discovering additional equipment that, by virtue of its presence within the declared perimeter, must be declared. However, in a private conversation later, Chem Demil Branch Head Anelli noted his dissatisfaction that inspection teams had only made this recommendation now, instead of much earlier, considering there have been several years of inspections of the facility.

¶5. (C) U.S. and UK reps also inquired as to why the current request to correct the conversion plan covered only the addition of equipment, and not the Libyan stated intent to retain the sandbag wall around the facility. The TS replied that Libya was unwilling to circulate this request until the U.S. and UK had agreed, and implied that this reason for the delay had been expressed by Libya to several delegations.

¶6. (SBU) The UK delegate requested a TS assessment of Libyan progress on conversion, and indicated that the general lack of transparency in Libyan reporting had led to greater concern regarding the conversion deadline than might otherwise be warranted. The TS was quite positive, and noted that the most recent inspection in April 2008 showed that several buildings have already been converted in accordance with the conversion plan and that new equipment is being delivered; this new progress will be highlighted in the TS presentation at the EC-53 destruction informals.

INDUSTRY CLUSTER ISSUES

¶7. (SBU) On May 16, DelRep met with representatives of Canada, France, Germany, Italy, Japan, Netherlands, Slovenia, Switzerland, and the UK at a lunch hosted by Italy. The purpose of this meeting was to informally take the pulse of the group regarding two Industry Cluster issues -- transfer discrepancies and low concentration thresholds for Schedule 2A/2A*. Although general plans for the transfer discrepancies consultation were discussed briefly, the heart of the discussion was 2A/2A*.

¶8. (SBU) On the 2A/2A* topic, the discussion confirmed the experience coming out of previous consultations that the matter hinges on the concentration threshold for PFIB. However, delegations pointed to the recent mischief that Iran and others seemed ready to create around this topic

in an effort to highlight WEOG internal disagreements. Several delegations pointed to the fact that some NAM delegations (China and India) are hiding behind the WEOG on this matter, as its resolution would likely impact their industry as well. The following positions were expressed by the various delegations:

¶ 19. (SBU) Canada was quite frank in stating that a PFIB threshold of any level would have no impact on Canadian industry. They see this strictly as a "matter of principle," and, as such, they do not envision changing their current regulatory level of 0.5 percent. The delegation is quick to acknowledge that the technical expertise on this matter lies in Ottawa, which seems quite passionate on the issue. During the Review Conference, the Canadian delegation suggested taking the language from the last facilitator's draft decision (fall 2006) and inserting it into the report as an interim measure. Although this was supported by many delegations, including some at this meeting, it was seen mostly as a measure to motivate quick resolution of the matter more generally and, thus, was not sustained. (Del note: Discussions with representatives from Ottawa during the Review Conference showed that their concerns may not be directly tied to current industry practices related to PFIB but rather historical issues and related chemicals.)

¶ 10. (SBU) France was rather quiet about their position, except to say that they were not convinced about the urgency of this matter. Clearly, the real

expertise on this matter lies in Paris. It was unclear whether this delegation was following Germany's lead, as they often do.

¶ 11. (SBU) Germany was surprisingly quiet. It was clear that they were not motivated to solve this problem or discuss it in any detail. However, it appears that they are still looking for a clear rationale to move lower from their current threshold of 30 percent.

¶ 12. (SBU) Italy's position has clearly shifted in recent months. In Rome, they are receiving repeated and more intense petitioning from their industry to move to a "level playing field." Because they need an EC or CSP decision in order to change their legislation, this delegation is ready to move to any threshold value (from their current 0.5 percent to even as much as 30 percent) that can reach timely consensus.

¶ 13. (SBU) Japan was rather quiet, except to state that their capital still views this as a technical matter. In the end, it is expected that Japan will follow Germany and the U.S. in reaching a solution.

¶ 14. (SBU) Netherlands also views the matter as one of a "level playing field." Their current threshold (0.5 or 1 percent) represents their early thoughts about the toxicity of the 2A/2A* chemicals. However, some bits of pragmatism shone through in their discussion, and there seems to be room to negotiate with them.

¶ 15. (SBU) Slovenia's delegation was apparently invited to attend in their role as Chair of the European Union. Beyond that, their contribution was mainly on matters of strategy, particularly in dealing with the NAM.

¶ 16. (SBU) Switzerland had spoken in favor of the Canadian proposal during the Review Conference. They also published a discussion paper on risk assessment in the run-up to the Conference. They presented no

new argument points during this meeting. (Del note: The Swiss discussion paper supports the TS position that multipurpose plants are of higher risk than dedicated plants, a position that raised questions later in the discussion.)

¶17. (SBU) The UK delegation has the clearest position on this matter. However, their technical expertise lies in London. London uses as part of their argument that their industry is "happy" with the current standard of 0.5 percent and, although they want a "level playing field," the National Authority is not likely to consider a standard above the current one. When questioned whether they might be able to acknowledge that their standard of 0.5 percent was wrong or at least over-aggressive, they stated that their capital's original technical analysis pointed in this direction, and they have no reason to believe that this assessment has changed. Although probably without instructions, the UK delegate offered that they might be willing to consider an intermediate threshold for PFIB (e.g., 10 percent) as a compromise. However, they were quick to say that, even with such a compromise, they would not likely raise the threshold for their own industry, feeling that a field closer to level was better than nothing and would send a better signal.

¶18. (SBU) For the U.S., seeing his role more as one of facilitating than negotiating, DelRep pointed to a couple of apparent inconsistencies that came out of the discussion: 1) arguments based solely around the relative toxicity of PFIB play into the hand of the NAM idea of a "hierarchy of risk"; 2) given the

current TS methodology of assessing plant site risk, PFIB plant sites fall into what the TS would consider as having low-risk characteristics (i.e., large-volume, dedicated facilities); 3) the SAB report on this matter (SAB-IV/1, dated 6 February 2001) concluded that, in the end, a decision was a policy call rather than technical. Also, DelRep cautioned that, even if an agreement could be struck within the WEOG and Japan, such an agreement would then force China and India to stop hiding behind the WEOG, not necessarily to take the proposal at face value. Given that there appears to be a sizeable industry within those two countries (and probably others), they are not likely to accept some WEOG-generated standard without a fight in the name of their industry.

¶19. (SBU) The group did conclude that reopening consultations without some sort of draft agreement between WEOG countries and Japan would be a recipe for disaster. Given the need for some delegations to have greater input from their capitals in these discussions, the idea was proposed to prepare for another session of these interested delegations on the margins of EC-53, if another earlier venue could not be found.

¶20. (SBU) Subsequent conversations with the Canadian delegate indicate that the Japanese National Authority may be moving toward the 10 percent level for PFIB given more recent changes in technology associated with this industry within Japan. DelRep also met May 27 with Stephen Wade (TS, Head, Declarations), who was the most recent facilitator on this matter before joining the TS staff. Some of these concerns and inconsistencies were raised with him, although his overall positions on the matter still closely mirror those of the UK National Authority, of which he was once part.

PACIFIC LUNCH

¶21. (SBU) On May 16, the Japanese Delegation invited DelRep and delegates from China, Korea and Australia to lunch to share views on the Review Conference.

Previous informal meetings of this group, a local but less formal version of the JUSCANZ, had not included China, but the others agreed that it would be useful to add China for this discussion. All agreed that the RevCon report was truly a compromise text, acceptable, but without new initiatives. The Chinese delegate noted there were "no great leaps" but that the report keeps things moving forward in smaller steps. The Korean delegate noted that in terms of its specific mandate to review the work of the Organization in light of advances in science and technology, the RevCon had failed, as there was no real discussion of scientific issues and the Conference avoided the Scientific Advisory Board's report completely. He said his government found the final report acceptable, nonetheless.

¶22. (SBU) Japan considered the lack of a political declaration a step back from the first Review Conference. The Australian delegate agreed that the Conference was a "public relations failure" in that respect. He noted that while the final report was "okay," the process was unacceptable in its lack of transparency and the expectation that the majority of delegations would rubber stamp a document to which they had not been allowed to contribute. The group discussed at length the shortcomings of the Chairman of the Committee of the Whole and what might have improved the process. China noted that the NAM's repeated request for a rolling text, including at the Executive council meeting, along with the resistance

by the Chairman of the Working Group (UK's Amb. Parker), and the lack of transparency in the editing process during the working group, had led the NAM to produce the counter-text just before the RevCon. The Chinese delegate disagreed with DelRep that a few delegations had wanted to hold back NAM comments until very late in the process for leverage.

¶23. (SBU) All present agreed with DelRep's suggestion that earlier facilitation and delegation of work into small groups by both the Amb. Parker and Amb. Dani would have helped in reaching earlier agreement on the majority of the text. The Chinese delegate noted that the countries invited to the small negotiating group had no sense that they were to represent anyone except themselves. The Australian (who had not been invited to the small group but sat in to observe at several points) noted that the COW should have been informed regularly of what the small group was doing; the COW had been informed that their work on the introduction was feeding into the small group's deliberations -- which, he said, was "clearly not the case." China also voiced concern, with some nods from others, that the Director General's role in negotiating text in the small group was not an appropriate one for the Technical Secretariat.

NEW EC CHAIR

¶24. (SBU) Amb. Javits invited the new Chairperson of the Executive Council, Amb. Oksana Tomova of Slovakia, to lunch on May 19 to discuss preparations for the EC. Slovakian delegate Michal Komada and DelRep also attended. Amb. Tomova, who formally became Chair on May 12 the week before, had been actively meeting with her new Vice Chairman (Algeria -- a holdover from the previous EC, Costa Rica, Germany and Iran), and with senior TS staff and key delegations. She told Amb. Javits she intends to engage ambassadors more actively in the work of the

Council and not allow them to depend totally on their staff for reports. She also plans to meet with the regional group coordinators to be sure that they are playing their role in informing the groups of events and openings for which they needed to elect candidates.

¶25. (SBU) Amb. Tomova said the bureau would hold its first formal meeting later that week to allocate the clusters of issues, and she asked Amb. Javits if he thought the cluster that was formerly chaired by the Russian Ambassador (legal and organizational affairs) would be appropriate for the Iranian. In discussing the other vice chairmen and the other clusters, Amb. Javits agreed that the legal issues were probably best for the Iranian. Amb. Tomova said in her meeting with Iranian Ambassador Ziaran that he had expressed willingness to help on "anything" where he might be needed. The issues he had raised with her included the budget and the Scientific Advisory Board. Amb. Javits described Iran's past interest in increasing the budget for assistance programs, and the RevCon discussions of the SAB that included the Iranian proposal (agreed in the final report) for a meeting of experts to discuss the SAB report. He noted that we had not objected to expert discussion but that we and others had blocked adding a permanent layer of bureaucracy to review the SAB reports in future.

¶26. (SBU) Amb. Javits raised the U.S. desire for better management of the inter-sessional work of the EC and CSP, along with improved mentoring and support for facilitators. He gave Amb. Tomova a copy of ISN's checklists of annual work for the EC and specific items coming up in EC 53 and EC 54. She

also liked the U.S. suggestion of using the formal EC agenda meetings more actively to identify problem areas with more time to try to actively resolve them than during the EC itself. She was most appreciative for the discussion and expressed her strong interest in keeping in close touch with the U.S. delegation.

¶27. (SBU) In a meeting later in the week with DelReps, the German delegate who had attended the EC Bureau meeting confirmed that the new vice chairs would retain the clusters of their regional predecessors and that the Iranian would take the cluster of the Russian Ambassador. Thus, Algeria retains chemical industry issues, Costa Rica takes the budget and administrative cluster, Germany will have chemical weapons issues, and Iran will take legal and organizational matters. The German delegate also noted that Amb. Tomova had very deftly, but pointedly, mandated that the vice chairs were to report regularly to their regional groups and that she would also be in touch with the regional coordinators for this purpose.

WEOG MEETINGS

¶28. (U) The May 13 and 20 weekly WEOG meetings were sparsely attended and were chaired by Patrick Comoy of the French Embassy, while Annie Mari was on vacation. The agendas for both meetings included continued discussion on Review Conference follow-up and preparations for the upcoming meeting of the Executive Council (EC-53) in late-June. Several delegations were complimentary of the U.S.-generated summary of items to be considered by EC-53 or EC-54, stating that there was much more work to be done than it might seem and that this was a good check-list for organizing priorities for the EC.

¶29. (SBU) There was some discussion on the topic of

revitalizing facilitations and recruiting new facilitators, although the outcome was somewhat disappointing. Suggestions were floated for possible facilitators for Article VII, Article X, and other topics. Several delegations confirmed that Li Hong of China will continue to facilitate Article XI discussions. The UK delegate noted that Article X has increased in importance with the RevCon and needs an experienced facilitator to deal with Iran's machinations; Article VII is now less important, in the UK's view, and perhaps could go to a NAM country. DelRep raised the importance of the budget consultations and how useful it had been to have co-facilitators for this issue in the past. Martin Strub (Switzerland) volunteered to co-facilitate the budget consultations. Amb. Javits welcomed Strub's willingness to take on this difficult position, and reported on his discussions with Amb. Lomonaco (Mexico) about the possibility of Blanca Polo of his staff being a co-facilitator. There was wide support within the WEOG for this pairing of facilitators. (Del note: Unfortunately, despite active encouragement from Amb. Javits, Strub and others, Blanca Polo decided that she was not yet ready to take on this responsibility).

UPCOMING CERTIFICATION OF TS INSPECTION EQUIPMENT AND TS REORGANIZATION

¶30. (U) On May 14, DelRep met with TS officers Kangi Makiyama and Julian Tangaere to discuss a possible visit of the U.S. Technical Equipment Inspection team in August to certify equipment listed in S/679/2008 and S/690/2008. Makiyama indicated additional equipment may come in over the next several months

and be available for U.S. certification; DelRep noted that any additions would need to be received as soon as possible to ensure the proper team composition.

¶31. (U) Makiyama also used the meeting to introduce Del Rep to his successor, Jerzy Jastrzebski, who will take over Makiyama's functions following his departure in September, in keeping with the planned shift of the Equipment Store from the Technical Support Branch in Verification to the Operations and Planning Branch (OPB) in the Inspectorate. This reorganization seems to be widely supported, as it ties the management of the equipment more closely to the mission planning cycle; it is still awaiting official DG approval, but has already been reflected in the draft budget for 2009.

¶32. (U) OPB Head Tangaere also noted that in the coming months/year, the Council is likely to see an increasing number of notifications on the procurement of new equipment. Given the mandate from the Review Conference to review the operational requirements and technical specifications approved by CSP-I, the TS will be reviewing the equipment list line by line. Tangaere expressed hope that this could be used as an opportunity to be a bit more forward looking, as opposed to reacting when parts or spares for equipment procured in 1997 go out of production (e.g. Polaroid film). Del Rep inquired as to whether the TS experienced a significant operational impact as a result of, or was merely inconvenienced by, outdated equipment. Tangaere replied that the latter was more accurate, but noted the second order benefits of lighter, more portable updates on shipping costs; and also the impact of better functioning equipment on inspector morale.

SCHEDULE 1 FACILITY AGREEMENT

¶33. (U) On May 20, DelRep met with a representative of the TS Policy and Review Branch (PRB) to discuss a draft facility agreement for an industry Schedule 1 facility in the U.S. This draft, based on an earlier draft by the TS and formatted after last year's successfully finalized Schedule 2 facility agreement, contains relevant input from the facility. PRB led the TS review of this draft over the past two weeks, and the recommended edits were acceptable. A few last-minute details centered on health and safety matters are being addressed at present. The goal is to place this on the agenda for the upcoming Executive Council (EC-53) meeting for consideration. If that is not possible, it is hoped that the document can at least be distributed in advance of EC-53 so as to increase the chances of the facility agreement being approved at EC-54 in October.

¶34. (U) Javits sends.
Foster